

January 7, 2011

Carole Cifrino
Maine Department of Environmental Protection
17 State House Station
Augusta, ME 04333

RE: Implementing Product Stewardship in Maine: 2011 Report to the Joint Standing Committee on
Natural Resources; Industry Coalition Comments

Dear Ms. Cifrino:

We are an informal coalition of companies and associations that have been monitoring the developments around product stewardship and extended producer responsibility initiatives. Please accept this letter with attachment as our comments on the above referenced report (hereinafter referred to as "Report"). While several of the undersigned will submit individual comments on the Report, the coalition believes that there are some basic principles of product stewardship, extended producer responsibility, and waste management in general that have not been taken into consideration by the Report. In this regard, please see the attached document entitled "Impacted Product Stewardship Coalition: Product Stewardship/Extended Producer Responsibility Talking Points."

Most notably, although the report purports to be extensive, it does not fully explain all issues associated with product stewardship and extended producer responsibility. If the state wants to seriously consider this as a waste management option, it will be vital to take into account the perspectives of employers, consumers, manufacturers, retailers and local governments in Maine. The Report states that product stewardship is "a public policy that moves responsibility for the management of products at the end of life from local governments to the private sector," the model legislation included for the Report's new product stewardship program candidates as well as the Report's suggested changes to existing programs tell a different story. In fact, the suggested legislation and legislative "fixes" actually move this responsibility from local governments to the Department, creating new state government programs for which the private sector and Maine consumers will ultimately have to pay.

Many of the coalition members already have programs for their products, both voluntary as well as required by statute, in Maine and across the U.S. If Maine truly wants product stewardship/extended responsibility programs to address end of life management issues for applicable products and is not merely using these concepts to introduce or expand Departmental programs, then Maine needs to work directly with impacted manufacturers, retailers, local governments and consumers. We are confident that our commitment to reducing waste from all sources will have a beneficial impact on the environment and we will continue to lead our respective industries in this area. Command and control approaches, however, as recommended by the Report, are not product stewardship or extended producer responsibility approaches and will not lead to commensurate environmental benefit for the residents of Maine when compared to the associated costs.

Thus, the Coalition does not support the recommendations contained in the Report, but welcomes the opportunity to discuss our issues with the Department and members of the Natural Resources Committee. Please contact Ben Gilman at the ME Chamber of Commerce at 207-623-4568 or bgilman@mainechamber.org if you have any questions or need additional information.

Sincerely,

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Andy Hackman,
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Amy Dempster
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American Forest and Paper Association

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Vice President, State Government Relations
Advanced Medical Technology Association

Impacted Product Stewardship Coalition (IPSC)

Product Stewardship / Extended Producer Responsibility Talking Points

Product Stewardship is ... As defined by the U.S. EPA, “Product stewardship is a product-centered approach to environmental protection. It calls on those in the product lifecycle—manufacturers, retailers, users, and disposers—to *share responsibility for reducing the environmental impacts* of products.”¹ [Emphasis Added]

- Participants in a product’s life cycle with responsibility for stewardship include the manufacturer, distributor, retailer, consumer, waste management company and local government.
- Product manufacturers have a responsibility to strive to ensure that their product and packaging create the least impact on human health and the environment while being functional and cost-effective for the consumer.
- The goal of effective market-based PS/EPR programs should be to reduce environmental impacts; through tools such as:
 - Source reduction,
 - Use of recycled content and packaging,
 - Use of easily recyclable materials, and
 - Increased acceptance of products and packaging for recycling or proper disposal.

Product Stewardship is NOT ... A principle for merely shifting the cost burden for product end-of-life management to producers. If producers establish end-of-life management programs for their products – they must be able to finance and operate their own privatized and market-based systems – not finance and operate government dictated programs.

Concerns with Framework Product Stewardship / Extended Producer Responsibility Legislation

“Framework Product Stewardship (PS) or Extended Producer Responsibility (EPR) Programs” use a one-size fits all approach to EPR and by creating state government bureaucracies and mandated program elements, that do not realize the cost and environmental benefit envisioned by legitimate PS/EPR programs.

- Broad “Framework EPR Programs” are open-ended, unclear, and will be costly for:
 - State Agencies – to study and prioritize products, review and approve plans and reports and to audit for compliance and enforcement
 - Consumers - who will pay more for products; and
 - Manufacturers - who will be forced to finance government mandated programs.

¹ U.S. Environmental Protection Agency, Wastes Program – Product Stewardship - <http://www.epa.gov/osw/partnerships/stewardship/>

- The scope of the “Framework EPR Legislation” is broadly written so as to include any type of product in commerce and there are only vague and subjective decision-making thresholds.
- Government mandated “Framework EPR Programs” ignore market-driven recycling programs which are the most efficient means to collecting and reusing product materials at the end of a product’s useful life-cycle.
- “Framework EPR Programs” ignore consumer behavior (will a consumer actually bring a product back instead of throw it away) when dictating program elements. Consumer behavior is the #1 issue needed to make any collection program feasible and cost-effective.
- It is unjustifiable to make only one party (industry) responsible for actions of other parties (consumers) when designing the goals and requirements of a product stewardship program.
- “Framework EPR legislation” provide unprecedented authority to state agencies that may lack requisite expertise to make these decisions and often lack funding to commission independent scientific analysis.
- “Framework EPR legislation” does not require a cost-benefit analysis to businesses, consumers, the state, or local governments.
- The scope of most “Framework EPR legislation” does not recognize energy conservation, source reduction, or waste minimization as opposed to mandatory take-back as options for compliance.
- “Framework EPR legislation” would set the precedent for businesses to finance and operate government imposed product-specific collection and disposal programs. Creating state programs financed by business, regardless of affordability and cost-benefit, is not the goal of PS.
- “Framework EPR legislation” typically stipulates that there shall be no “visible” fee allowed by brand owners or manufacturers (at point of sale) to pay for mandated program –disregarding a potential valuable opportunity to educate consumers.
- “Framework EPR Programs” do not encourage product makers to locate, expand or re-invest in any state or create jobs. Market-driven programs are the key to addressing end-of-life collection and job creation.